

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

EMMANUAL SHARP,

Plaintiff-Claimant,

v.

Case No. 14-C-673

**CAROLYN W. COLVIN,
Acting Commissioner of Social Security,**

Defendant-Respondent.

DECISION AND ORDER

Plaintiff-Claimant Emmanuel Sharp (“Sharp”) seeks leave to proceed *in forma pauperis* on his appeal from the denial of his social security supplemental security income (“SSI”) claim. (ECF No. 2.) In order to authorize a litigant to proceed *in forma pauperis*, the Court must make two determinations: First, whether the litigant is unable to pay the costs of commencing this action; and, second, whether the action is frivolous or malicious. 28 U.S.C. §§ 1915(a) and (e)(2)(B)(i).

By his petition and affidavit to proceed *in forma pauperis*, Sharp avers that he is unemployed and single. He receives \$153 in public assistance. He has no dependents. He has no valuable assets and no money. He has no monthly expenses. Sharp has satisfied the requirements of 28 U.S.C. § 1915(a) and is unable to pay the \$350 filing fee for this action.

Sharp must next demonstrate that his action has merit as required by 28 U.S.C. § 1915(e)(2)(B)(i). An action is frivolous if there is no arguable basis for relief either in law or in fact. *Denton v. Hernandez*, 504 U.S. 25, 31 (1992) (quoting *Neitzke v.*

Williams, 490 U.S. 319, 325 (1989)); *Casteel v. Pieschek*, 3 F.3d 1050, 1056 (7th Cir. 1993).

Under 42 U.S.C. § 405(g), a plaintiff may obtain review of the Social Security Commissioner's decision. The standard of review that the Court is to apply in reviewing the Commissioner's decision is whether the decision is supported by "substantial evidence." 42 U.S.C. § 405(g); *Jens v. Barnhart*, 347 F.3d 209, 212 (7th Cir. 2003).

Sharp's Complaint states a claim that the Commissioner's decision regarding the denial of his application for SSI is not supported by substantial evidence, or is contrary to law. (*See* Compl. ¶¶ 6-10.) At this preliminary stage of the proceedings, the Court concludes that there may be a basis in law or in fact for Sharp's appeal of the Commissioner's decision and the appeal may have merit, as defined by 28 U.S.C. § 1915(e)(2)(B)(i). Therefore, the Court grants Sharp's request to proceed *in forma pauperis*.

NOW, THEREFORE, BASED ON THE FOREGOING, IT IS HEREBY ORDERED THAT:

Sharp's petition for leave to proceed *in forma pauperis* (ECF No. 2) is **GRANTED**.

Dated at Milwaukee, Wisconsin, this 20th day of June, 2014.

BY THE COURT:


HON. RUDOLPH T. RANDA
U.S. District Judge